

STATE OF MINNESOTA
COUNTY OF HENNEPIN

FILED
MINNEAPOLIS, MINN
12 JUN 12 AM 11:13
CITY CLERK
DEPARTMENT

PERSONALLY SERVED

DISTRICT COURT

FOURTH JUDICIAL DISTRICT

CASE TYPE - Personal Injury

Michelle Allen, on behalf of her
minor child, J.A.,

Plaintiff,

SUMMONS

vs.

Officer Heather Sterzinger,
and City of Minneapolis,

Case No. _____

Defendants.

THIS SUMMONS IS DIRECTED TO THE ABOVE-NAMED DEFENDANTS.

1. **YOU ARE BEING SUED.** The Plaintiff has started a lawsuit against you. The Plaintiff's Complaint against you is attached to this Summons. Do not throw these papers away. They are official papers that affect your rights. You must respond to this lawsuit even though it may not yet be filed with the Court and there may be no court file number on this Summons.
2. **YOU MUST REPLY WITHIN 20 DAYS TO PROTECT YOUR RIGHTS.** You must give or mail to the person who signed this Summons a **written response** called an Answer within 20 days of the date on which you received this Summons. You must send a copy of your Answer to the person who signed this Summons located at: Jordan S. Kushner, Attorney at Law, 431 South Seventh Street, Suite 2446, Minneapolis, Minnesota 55415.
3. **YOU MUST RESPOND TO EACH CLAIM.** The Answer is your written response to

the Plaintiff's Complaint. In your Answer you must state whether you agree or disagree with each paragraph of the Complaint. If you believe the Plaintiff should not be given everything asked for in the Complaint, you must say so in your Answer.

4. **YOU WILL LOSE YOUR CASE IF YOU DO NOT SEND A WRITTEN RESPONSE TO THE COMPLAINT TO THE PERSON WHO SIGNED THIS SUMMONS.** If you do not Answer within 20 days, you will lose this case. You will not get to tell your side of the story, and the Court may decide against you and award the Plaintiff everything asked for in the Complaint. If you do not want to contest the claims stated in the Complaint, you do not need to respond. A default judgment can then be entered against you for the relief requested in the Complaint.
5. **LEGAL ASSISTANCE.** You may wish to get legal help from a lawyer. If you do not have a lawyer, the Court Administrator may have information about places where you can get legal assistance. **Even if you cannot get legal help, you must still provide a written Answer to protect your rights or you may lose the case.**
6. **ALTERNATIVE DISPUTE RESOLUTION.** The parties may agree to or be ordered to participate in an alternative dispute resolution process under Rule 114 of the Minnesota General Rules of Practice. You must still send your written response to the Complaint

even if you expect to use alternative means of resolving this dispute.

Dated: July 2, 2012

LAW OFFICE OF JORDAN S. KUSHNER

By s/Jordan S. Kushner

Jordan S. Kushner, ID 219307

Attorney for Plaintiff

431 South 7th Street, Suite 2446

Minneapolis, Minnesota 55415

(612) 288-0545

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

CASE TYPE - Personal Injury

Michelle Allen, on behalf of her
minor child, J.A.,

Plaintiff,

COMPLAINT

vs.

JURY TRIAL DEMANDED

Officer Heather Sterzinger,
and City of Minneapolis,

Case No. _____

Defendants.

Plaintiff Michelle Allen, for her Complaint against above-named Defendants, states and
alleges as follows:

I. INTRODUCTION

1. This is a civil rights action arising from Defendants Heather Sterzinger's unprovoked and unjustified physical attack on Plaintiff 's minor daughter J.A. on May 27, 2012. J.A. was walking in downtown Minneapolis looking for her purse which she believed had been stolen, whereupon Defendant Sterzinger violently grabbed J.A. by her neck, choked her and repeatedly slammed her into a glass wall. J.A. suffered numerous physical injuries including but not limited to a concussion. Plaintiff's causes of action include violations of J.A.'s constitutional rights pursuant to 42 U.S.C. § 1983, and common law claims for assault, battery, and false imprisonment.

II. PARTIES

2. Plaintiff Michelle Allen is a resident of Hennepin County, Minnesota. She

sues on behalf of her seventeen year-old daughter J.A. who lives with her.

3. Defendant Heather Sterzinger is a police officer employed by the City of Minneapolis presently and at the time of the incident giving rise to this case. She was acting under color of state law. Defendant Sterzinger is being sued in her personal and official capacity.

4. Defendant City of Minneapolis is a city in the State of Minnesota, and through its police officer employees, is responsible for the actions that are the subject of this action.

III. FACTS

5. On the evening of May 27, 2012, J.A. was walking in downtown Minneapolis. She had come from Lake Calhoun, and was planning to transfer to a bus to go to her home in North Minneapolis. While J.A. was walking downtown, someone snatched her purse and ran away. She proceeded to walk around and look for her purse.

6. At approximately 9:10 p.m. according to the City's video surveillance, while J.A. was walking on the sidewalk in front of the City Center on 7th Street to the west of Nicollet Mall, Defendant Officer Heather Sterzinger suddenly ran up to J.A. and grabbed J.A. by her neck. Defendant Sterzinger grabbed J.A.'s neck and esophageal area, and scratched her neck and choked her. Sterzinger slammed J.A.'s head into a glass wall or door at least twice. Another police officer intervened and led J.A. away from Sterzinger. That officer drove J.A. home.

7. J.A. had not done anything illegal and Defendant Sterzinger had no grounds to believe J.A. had violated any law. Defendant Sterzinger had no grounds to believe that J.A. posed any threat to anyone's safety.

8. Throughout that night and the next day, J.A. suffered from a headache,

neck pain, vomiting and pain from swallowing. She went to a hospital the next day where she was diagnosed with a concussion and cervical strain. J.A.'s symptoms have continued and she has sought follow up medical treatment. She also suffered emotional trauma and is seeking counseling.

9. As a result of Defendants' actions, J.A. has suffered pain, mental and emotional distress, embarrassment and humiliation, the invasion of her person, and has incurred other losses and damages, altogether **in excess of \$50,000.**

IV. CAUSES OF ACTION

10. Plaintiff hereby realleges and incorporates by reference all of the facts and allegations contained in paragraphs 1 through 9 of this Complaint.

11. **COUNT 1 - VIOLATION OF 42 U.S.C. § 1983 - FOURTH AMENDMENT - EXCESSIVE FORCE.** Defendants, acting under color of state law, deprived J.A. of her rights, privileges and immunities secured by the Constitution and laws of the United States, in violation of 42 U.S.C. § 1983, by committing acts in violation of the Fourth Amendment protections against unreasonable seizures by engaging in unjustified, unnecessary and excessive force.

12. **COUNT 2 - VIOLATION OF 42 U.S.C. § 1983 - FOURTH AMENDMENT -- UNLAWFUL SEIZURE.** Defendants, acting under color of state law, deprived J.A. of her rights, privileges and immunities secured by the Constitution and laws of the United States, in violation of 42 U.S.C. § 1983, by committing acts in violation of the Fourth Amendment protections against unreasonable seizures by seizing J.A. and thereby depriving her of her liberty without any probable cause to believe she had committed any crime.

13. **COUNT 3 - VIOLATIONS OF 42 U.S.C. § 1983 - FIFTH AND FOURTEENTH AMENDMENT.** Defendants, acting under color of state law, have deprived J.A. of her rights, privileges and immunities secured by the Constitution and laws of the United States, in violation of 42 U.S.C. § 1983, by committing acts in violation of the Fifth and Fourteenth Amendment Rights to Due Process by depriving her of her liberty and causing physical harm without any justification for doing so and engaging in outrageous conduct.

14. **COUNT 4 - VIOLATIONS OF 42 U.S.C. § 1983 - FOURTEENTH AMENDMENT - EQUAL PROTECTION.** Defendants, acting under color of state law, have deprived J.A. of her rights, privileges and immunities secured by the Constitution and laws of the United States, in violation of 42 U.S.C. § 1983, by committing acts in violation of the Fourteenth Amendment Right to Equal Protection by subjecting her to cruel and brutal treatment which differs from treatment accorded to similarly situated citizens

15. **COUNT 5 - VIOLATIONS OF 42 U.S.C. § 1983 - FAILURE TO PROPERLY TRAIN AND SUPERVISE.** Defendant City of Minneapolis deprived J.A. of her rights, privileges and immunities secured by the Constitution and laws of the United States, in violation of 42 U.S.C. § 1983, by failing to properly train and supervise its police officers to respect the constitutional and other rights of its citizens, and thereby encouraged and implicitly authorized individual Defendants to violate the rights of J.A. The City of Minneapolis has maintained an ongoing practice and custom that continue with the incidents described in this Complaint, which includes but is not limited to a pattern of disregard for the rights of citizens.

16. **COUNT 6 - BATTERY.** Defendants, by their above-described actions, engaged in harmful and violent physical contact against J.A. without consent or any legal

justification.

17. **COUNT 7 - ASSAULT** Defendants, by their above-described actions, caused J.A. to suffer fear of imminent bodily harm without any consent or legal justification.

18. **COUNT 8 - FALSE IMPRISONMENT.** Defendants, by their above-described actions, wrongfully, illegally, and unjustifiably confined and restrained J.A. without her consent, and thereby falsely imprisoned her.

19. **COUNT 9 - NEGLIGENCE.** Defendants, by their above-described actions, breached their duty to exercise a reasonable standard of care in dealing with J.A., and acted willfully and maliciously.

20. As a result of Defendants' above-described illegal conduct, J.A. has suffered the damages described in paragraph 9 of this Complaint.

V. RELIEF REQUESTED

WHEREFORE Plaintiff prays for Judgment in their favor as follows:

1. Awarding judgment in favor of J.A. and against the Defendants and each of them jointly and severally in an amount **in excess of \$50,000.00** as and for compensatory damages.
2. Awarding punitive damages against Defendants.
3. Awarding Plaintiff all of her costs and disbursements herein, and prejudgment interest.
4. Awarding Plaintiff reasonable attorney fees pursuant to 42 U.S.C. § 1988.

5. Such other and further relief as the Court may deem just and proper.

Dated: July 2, 2012

LAW OFFICE OF JORDAN S. KUSHNER

By s/Jordan S. Kushner

Jordan S. Kushner, ID 219307
Attorney for Plaintiff
431 South 7th Street, Suite 2446
Minneapolis, Minnesota 55415
(612) 288-0545

ACKNOWLEDGEMENT REQUIRED BY MINN. STAT. § 549.211

The Plaintiff, by her undersigned attorney, hereby acknowledges that, pursuant to Minn. Stat. § 549.211, costs, disbursements, and reasonable attorney and witness fees may be awarded to the opposing party in this litigation.

Dated: July 2, 2012

By s/Jordan S. Kushner

Jordan S. Kushner, ID 219307
Attorney for Plaintiff

State of Minnesota

County of Hennepin

FILED

MINNEAPOLIS, MN

12 JUN 32 AM 11

JUDICIAL DISTRICT:
Court File Number:
Case Type:

District Court

Fourth
unassigned
Personal Injury

CITY CLERK

DEPARTMENT

Michelle Allen, on behalf of her daughter J.A.R.

Plaintiff / Petitioner

and

Heather Sterzinger and City of Minneapolis

Defendant / Respondent

SUBPOENA IN A CIVIL CASE
(COMMAND TO APPEAR)
Minn. R. Civ. Pro. 45TO: Brookfield Properties LLC, Custodian of Records 33 South 6th Street/City Center, Minneapolis, MN
Name _____ Address _____

You are commanded to appear as a witness in the district court to give testimony at the place, date, and time specified below.

Place of Testimony	Courtroom
	Date and Time

You are commanded to appear at the place, date and time specified below to testify at the taking of a deposition in the above case.

Place of Deposition	Date and Time
Jordan Kushner Law Office, 431 South 7th Street, Ste 2446, Minneapolis, MN	August 13, 2012, 9:30 am

You are commanded to produce and permit inspection and copying of the listed documents or objects at the place, date and time specified below (attach list of documents or objects if necessary):

Place	Date and Time
Jordan Kushner Law Office, 431 South 7th Street, Ste 2446, Minneapolis, MN	August 13, 2012, 9:30 am

You are commanded to permit inspection of the following premises at the date and time specified below.

Premises	Date and Time

Person requesting subpoena: _____ Telephone no: _____

WARNING: FAILURE TO OBEY A SUBPOENA WITHOUT BEING EXCUSED IS A CONTEMPT OF COURT

Signature of Court Administrator / Plaintiff's Attorney / Defendant's Attorney (Circle)	<u>July 2, 2012</u>
Jordan S. Kushner, 431 South 7th Street, Ste 2446	Date
Minneapolis, MN 55415 (612) 288-0545	SEAL (if issued by Court Administration)

IMPORTANT: Both pages of this document must be served on the person receiving the summons.

Subpoena of Brookfield Properties LLC
Schedule of Items to be Produced at Deposition on August 13, 2012

- All video and/or audio recordings depicting activity outside the City Center on 7th Street to the west of Nicollet Mall on May 27, 2012 from 8:45 p.m. to 9:30 p.m.

RETURN OF SERVICE

State of Minnesota

County of _____

I hereby certify and return that on _____ I served a copy of this subpoena upon the person named thereon. Service was made by:

- personally handing to and leaving with him or her a true and correct copy; or
- leaving a true and correct copy at his or her usual place of residence

Address _____

with _____ a person of suitable age and discretion.

Name of Person _____

NOTARY STAMP, SIGNATURE AND DATE
Subscribed and Sworn/Affirmed to before me on

_____, 20 _____

Date _____

By _____

Title _____

NOTE: If served by someone other than a Law Enforcement Officer, signature must be notarized.

Rule 45, Minnesota Rules of Civil Procedure, provides that:

- A subpoena may be served by any person who is not a party and is not less than 18 years of age.
- Service of a subpoena shall be made by delivering a copy to the person named in the subpoena or by leaving a copy at the person's usual place of abode with some person of suitable age and discretion who resides there.
- A witness who is not a party to the action or an employee of a party (except a person appointed pursuant to Rule 30.02(f)) and who is required to give testimony or produce documents relating to a profession, business, or trade, or relating to knowledge, information, or facts obtained as a result of activities in such profession, business, or trade, is entitled to reasonable compensation for the time and expense involved in preparing for and giving such testimony or producing such documents and is entitled to have the amount of those expenses determined prior to complying with the subpoena.
- A person is not obligated to attend as a witness in a civil case unless one day's attendance and travel fees are paid or tendered in advance (see fees below), unless the subpoena is issued on behalf of the state of Minnesota, or the state's officer or agent.

Fees to be paid to witnesses shall be as follows (Minn. Stat. § 357.22):

- For attending in any action or proceeding in any court of record or before any officer, person or board authorized to take examination of witnesses, \$20 for each day.
- For roundtrip travel estimated from the witness's residence at 28 cents per mile. If a witness lives outside the state, travel costs shall be estimated from the boundary line of the state where the witness crossed into Minnesota at 28 cents per mile. (Additional fees may be available for out of state witnesses).

In any proceeding where a parent or guardian attends the proceeding with a minor witness and the parent or guardian is not a witness, one parent or guardian shall be compensated in those cases where witness compensation is mandatory under Minn. Stat. § 357.22, and may be compensated when compensation is discretionary under those sections. No more than a combined total of \$60 may be awarded to the parent or guardian and minor witness. Minn. Stat. § 357.242.

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

CASE TYPE - Personal Injury

Michelle Allen, on behalf of her
minor child, J.A.,

Plaintiff,

vs.

NOTICE OF TAKING DEPOSITION

Officer Heather Sterzinger,
and City of Minneapolis,

Case No. _____

Defendants.

TO: Brookfield Properties LLC - Custodian of Records, and above-named Defendants
Heather Sterzinger and City of Minneapolis.

PLEASE TAKE NOTICE that the deposition of Brookfield Properties LLC -
custodian of records will be taken before a qualified notary public at the Law Office of
Jordan S. Kushner, Centre Village Office Suites, 431 South 7th Street, Minneapolis,
Minnesota 55415, Suite 2446, on August 13, 2012, at 9:30 a.m. and thereafter by
adjournment until said deposition shall be completed.

Dated: July 2, 2012

LAW OFFICE OF JORDAN S. KUSHNER

By s/Jordan S. Kushner
Jordan S. Kushner, ID 219307
Attorney for Plaintiff
431 South 7th Street, Suite 2446
Minneapolis, Minnesota 55415
(612) 288-0545